

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1267 of 1989

Date of decision: 21-01-1997

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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MAFATLAL FINE SPINNING & MANUFACTURING

Versus

NARASIAH PARAMAIAH BALLA  
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Appearance:

MR Vimal M. Patel for Petitioner  
MR VM TRIVEDI for Respondent No. 1  
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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 21/01/97

ORAL JUDGEMENT

Heard the learned counsel for the parties.

Challenge is made by the petitioner to the order of the Controlling Authority for Payment of Gratuity Act, Valsad, dated 29th December, 1988. Under the impugned order the petitioner was directed to pay the amount of gratuity to the respondent. The contention of the counsel for the petitioner is that the respondent was not entitled for any gratuity as he has not completed five years' service. It has further been contended that the respondent was only a badli worker and though for the period from 1-7-1981 to 30-6-1982 and 1-7-82 to 30-6-83 he has worked for more than 240 days in each year, but thereafter in subsequent years his working days were less than 240 days. The counsel for the petitioner contended that in view of the decision of the Supreme Court in the case of Lalappa Lingappa vs. Laxmi Vishnu Textile Mills, reported in AIR 1981 SC 851, and the decision of this Court, relying on the said decision of the Supreme Court, reported in 1996(2) GLH 323, he was not entitled to any amount of gratuity. The counsel for the respondents has very fairly conceded that the matter is squarely covered against respondent under the aforesaid decision of this Court, and he has nothing to say against the contention of the counsel for the petitioner. He further stated that in view of the decision of this court he has no objection if this special civil application is allowed and the order impugned in the petition is quashed. In views of this concession made by the learned counsel for the respondent it is not necessary for this court to deal with the contention raised by the learned counsel for the petitioner.

2. In the result this special civil application succeeds and the same is allowed. The order dated 28th December, 1988 at annexure-B is quashed and set aside. Rule made absolute accordingly. No order as to costs.

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